IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 9TH JANUARY 2007 / 19TH PAUSHA 1928

Crl.MC.No. 64 of 2007()

CC.79/2003 of JUDL.MAGISTRATE OF FIRST CLASS, PALA

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PETITIONER: 3RD ACCUSED

BOSE SEBASTIAN, PLATHOTTATHIL HOUSE,
ERATTUPETTA P.O.

BY ADV. SRI.RAJU K.MATHEWS

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE STATE PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO.64 OF 2007

Dated this the 9th day of January, 2007

ORDER

The petitioner is the 3rd accused in a prosecution under Secs.406, 420 and 468 read with Sec.34 of the IPC. The case was registered as early as in 2003. The petitioner was not available before the learned Magistrate. Coercive steps have been taken against the petitioner. Steps under Secs.82 and 83 of the Cr.P.C. have been initiated. The petitioner now wants to appear before the learned Magistrate. He is willing to surrender. He apprehends that his application for bail may not be considered by the learned Magistrate promptly, in accordance with law and on merits. In these circumstances, the short prayer made at the Bar by the learned counsel for the petitioner is that appropriate directions may be issued to the learned Magistrate to consider his application for bail in accordance with law and expeditiously.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the

learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

4. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge